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OF THE

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General Notice

MUNICIPALITY OF WALVIS BAY

No. 359

2020

REGULATIONS RELATING TO PUBLIC AMENITIES: LOCAL AUTHORITIES ACT, 1992

Under section 94(1)(x) of the Local Authorities Act, 1992 (Act No. 23 of 1992), after consultation with the Minister of Urban and Rural Development, I -

- (a) make the regulations set out in the Schedule; and
- (b) repeal the Standard Public Amenities By-law as published under Provisional Notice No. 829 of 20 December 1990.

I. WILFRIED
CHAIRPERSON OF THE COUNCIL
BY ORDER OF THE COUNCIL

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Definitions

1. In these regulations, a word or an expression to which a meaning has been given in the Act has that meaning, and unless the context otherwise indicates -

“approval” means permission in writing by the Council;

“authorised officer” means any person appointed or authorised by council to administer, implement or enforce the provisions of these regulations or any member of the Namibian police appointed in terms of section 4 of the Police Act, 1990 (Act No. 19 of 1990);

“Council” means the Walvis Bay Municipal Council;

“fee” means charges or other monies determined by the Council by notice in the *Gazette* in terms of section 30(1)(u) of the Act;

“liquor” means liquor as defined in section 1 of the Liquour Act, 1998 (Act No. 6 of 1998);

“local authority area” means the area of jurisdiction of the Council;

“notice” means -

- (a) a sign, displayed at or in a public amenity, approved by the Council; or
- (b) printed information, by or on behalf of the Council, containing information about a public amenity,

notifying members of the public within the local authority area, about matters relating to a public amenity;

“public amenity” means -

- (a) any land, square, walking path, camping site, swimming bath, public resort, recreation site, nature reserve, zoo-logical, botanical or other garden, park or hiking trail, including any facility or part of that facility and any apparatus in or on that facility, excluding any public road or street; or
- (b) any building, hall, room, office or other structure, including any part of that structure and any facility or apparatus in that structure which is the property of, or is possessed, controlled or leased by the Council and to which the general public has access, whether on payment of admission fees or not; and

“the Act” means the Local Authorities Act, 1992 (Act No. 23 of 1992).

Application of regulations

2. These regulations apply to the local authority area of Walvis Bay.

Entrance to and exit from public amenities

3. (1) Subject to these regulations, a person may enter a public amenity on the dates and times determined by the Council and made known by means of a notice.

- (2) The Council may determine different dates and times in respect of different public amenities.

- (3) A person may only enter or exit a public amenity at a point designated by the Council as an entry or exit point.

Entrance fees

4. (1) A person entering a public amenity must pay an entrance fee before the person enters the public amenity.

- (2) The Council may determine different entrance fees in respect of persons of different ages.

- (3) The entrance fee payable in terms of subregulation (1) must be paid to an authorised officer at a public amenity or at any other place as the Council may determine by notice.

Maximum number of persons allowed at public amenities

5. The Council may, by notice, determine the maximum number of persons allowed at a public amenity, and different numbers of persons may be determined in respect of different public amenities.

Prohibitions at public amenities

6. (1) A person may not, at a public amenity -

- (a) use any language, or perform an act, with the purpose of disturbing the good order;
- (b) discharge a firearm, air gun, air pistol, firework or use a sling-shot or a catapult;
- (c) burn rubble or refuse;
- (d) cause unpleasant or offensive odour;
- (e) cause smoke nuisances;
- (f) cause disturbance by fighting, shouting or arguing, or sing, play a musical instrument, use a loud speaker, radio reception device, television set or a similar device, in a manner that causes disturbance to any other person; or
- (g) loiter or beg.

- (2) A person may not, at a public amenity or in the vicinity of the public amenity -

- (a) dump, drop or place any refuse, rubble or any other similar object or thing, except in a container provided for that purpose;
- (b) pollute or contaminate, in any way, water in any bath, swimming bath, dam, river or watercourse;
- (c) enter any bath or swimming bath while suffering from infectious or contagious disease or having an open wound on his or her body;
- (d) perform any act that may affect the health of any person at a public amenity; and
- (e) use a tobacco product contrary to a notice contemplated in section 22(4) of the Tobacco Products Control Act, 2010 (Act No. 1 of 2010), prohibiting the smoking of tobacco product at the public amenity.

Structures at public amenities

7. (1) Subject to subregulation (2), a person may, with the prior approval, erect or establish in or on a public amenity a structure or shelter on a site designated for that purpose.

(2) A person may not erect or establish a caravan or tent for camping purposes or a gazebo for shade in or at a public amenity.

(3) The application for approval referred to in subregulation (1) must be made to the Council -

- (a) at least 14 days before the date of the erection or establishment of that structure or shelter; and
- (b) on a form obtainable from the Council.

Liquor and food

8. (1) A person may bring into a public amenity any liquor or food of any nature unless such liquor or food is prohibited to be brought into the public amenity by a notice.

(2) A person may, at a public amenity, cook, barbeque or prepare food, at a place designated for that purpose and the preparation and cooking of food at the public amenity must be done in a hygienic and clean manner and may not cause nuisances or be a health risk to any other person.

(3) A person may not kill, slaughter or skin an animal, poultry or fish at a public amenity.

(4) A person who contravenes or fails to comply with this regulation commits an offence and is liable on conviction to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or both such fine and such imprisonment.

Animals

9. Subject to the directions of the Council by notice, a person may bring a live animal, bird, fish or poultry into a public amenity and the Council may determine different directions in respect of different public amenities and different types of animals, birds, fish or poultry.

Gatherings at public amenities

10. (1) A person may not hold a gathering at a public amenity unless the person has obtained prior approval.

(2) The application for approval referred to in subregulation (1) must be made to the Council -

- (a) at least 21 days before the date of the gathering; and
- (b) on a form obtainable from the Council.

(3) If the Council grants the application for approval, the Council may impose conditions on the approval as the Council considers necessary.

(4) A person whose application for approval has been granted may, at the public amenity -

- (a) arrange or present a public entertainment;
- (b) collect money or any other goods for charity or for any other purpose from the members of the public;
- (c) display or distribute a pamphlet, placard, painting, book, handbill or any other printed, written or painted work;
- (d) arrange, hold or address any meeting;
- (e) arrange or hold a procession, exhibition or performance;
- (f) conduct trade, occupation or business;
- (g) display, sell or rent out or present for sale or rent any wares or articles;
- (h) hold an auction; or
- (i) tell fortunes for compensation.

(5) For the purposes of subregulation (1), a public gathering means a gathering of 12 persons or more persons organised by a person.

(6) The Council may refuse to give its approval for a public gathering, if the granting of that approval would -

- (a) give rise to a public riot, disturbance of public peace or commission of an offence;
- (b) be detrimental to the public or the users of, or persons in, the public amenity; or
- (c) be detrimental to the public amenity.

(7) A person who contravenes or fails to comply with subregulation (1) commits an offence and is liable on conviction to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or both such fine and such imprisonment.

Safety and order at public amenities

11. (1) A person may not, at a public amenity -
- (a) damage or disfigure anything at such amenity;
 - (b) use or try to use anything within such amenity for any purpose other than the purpose for which it is designated for;
 - (c) light a fire or barbeque meat, except at a place designated for that purpose;
 - (d) throw away any burning or smoldering object;
 - (e) throw or roll down any rocks, stones or objects from any mountain, hill, slope or cliff;
 - (f) pull out, pick or damage any tree, plant, shrub, vegetation or flower;
 - (g) behave himself in an improper, indecent, unruly, violent or any other offensive manner;
 - (h) cause disturbance to any other person;
 - (i) wash, polish or repair a vehicle;
 - (j) walk, stand, sit or lie in a flower bed;
 - (k) kill, hurt, follow, disturb, ill-treat or catch any animal, bird or fish or displace, disturb, destroy or remove any bird nests or eggs;
 - (l) walk, stand, sit or lie down on grass contrary to the provision of a notice prohibiting the walking, standing, sitting or lying down on such grass;
 - (m) lie on a bench or seating place or use it in such a manner that other users or potential users find it impossible to make use of that bench or seating place;
 - (n) play or sit on playpark equipment, except if the person is under the age of 13 years; or
 - (o) swim, walk or play in a fish pond, fountain, stream or pond contrary to the provision of a notice prohibiting the swimming, walking or playing in such fish pond, fountain, stream or pond.

(2) A person who contravenes or fails to comply with subregulation (1) commits an offence and is liable on conviction to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or both such fine and such imprisonment.

Water

12. (1) A person may not misuse, pollute or contaminate any water source, water supply or waste water in or at a public amenity.

(2) A person who contravenes or fails to comply with subregulation (1) commits an offence and is liable on conviction to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or both such fine and such imprisonment.

Laundry and crockery

13. (1) A person may not, in or at a public amenity, wash any crockery, laundry or hang out clothes to dry, except at a place designated by the Council for that purpose.

(2) A person who contravenes or fails to comply with subregulation (1) commits an offence and is liable on conviction to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or both such fine and such imprisonment.

Vehicles and other forms of transport

14. (1) Subject to subregulation (3), a person may not bring into a public amenity any truck, bus, motorcar, motor cycle, quad bike, motor tricycle, bicycle, skate board, roller skates, craft or airplane or other similar items, whether driven by mechanical, animal, natural or human power.

(2) The Council may determine the speed limit applicable in a public amenity and different speed limits may be determined in respect of different public amenities and for different forms of transport or similar items referred to in subregulation (1).

(3) The Council may exempt specific form of transport or similar items referred to in subregulation (1) to be allowed into a public amenity.

(4) The Council must notify the public of any exemption made under subregulation (3) and the speed limit contemplated in subregulation (2) by way of notice or road signs at or in the public amenity.

Games

15. (1) A person may not play or conduct a game of any nature in or at a public amenity, except at an area designated by the Council for that purpose.

(2) A person who contravenes or fails to comply with subregulation (1) commits an offence and is liable on conviction to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or both such fine and such imprisonment.

Improper or indecent behaviour

16. (1) A person may not, in or at a public amenity -

- (a) perform an indecent act or conduct himself or herself improperly by exposing his or her naked body or make improper gestures or incite or urge any other person to perform a disorderly or indecent act;
- (b) use foul, lewd, dirty or indecent language;
- (c) write, paint, draw or in any way make a filthy or immoral figure, writing, drawing or representation;
- (d) defecate or urinate, except in a toilet facility;
- (e) perform any sexual act;
- (f) be intoxicated or under the influence of a narcotic;

- (g) engage in gambling; or
- (h) solicit any person for the purpose of prostitution.

(2) A person who contravenes or fails to comply with subregulation (1) commits an offence and is liable on conviction to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or both such fine and such imprisonment.

Notices

17. (1) A person in or at a public amenity must, in addition to these regulations, comply with the provisions of any notice.

(2) A person who contravenes or fails to comply with subregulation (1) commits an offence and is liable on conviction to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or both such fine and such imprisonment.

Powers of authorised officers

18. An authorised officer in charge or in control of a public amenity may conduct an investigation in order to determine whether a person at the public amenity is complying with these regulations.
